OUTLINE OF ORAL ARGUMENT RE MORTON'S MOTION FOR SANCTIONS ARGUED ON FRIDAY DECEMBER 9, 2022 AT 9:00 AM

JPMorgan Chase Bank NA vs. David Arthur Morton,
Pierce County Superior Court Cause No. 14-2-07014-0

Division Two reversed the previous decision of this Court foreclosing on David Morton's home because Douglas Theener, a Chase VP had not supported his assertion that Chase possessed Morton's Note when it was lost, with business records taking that statement outside of the parameters of the hearsay rule.

In order to obtain that evidence Theener asserted existed (which included the collateral file he had inspected) Morton noted the 30(b)(6) deposition of Chase's designees to testify about the evidence Chase had in this regard. As to those topics, about which Chase was to prepare its designees to testify please see Morton's 30(b)(6) deposition notice which is attached to my declarations.

Judge Aschraft at the second scheduled trial of this foreclosure case following remand ultimately acknowledged that Chase had refused to comply with this 30(b)(6) deposition notice when on the first day of trial he struck the trial to give Morton the opportunity to take Chase designee's deposition a second time. And

as you will recall from the record of this second trial proceeding, I objected to this procedure and challenged that giving Chase another bite at the apple appeared to suggest the judge was biased on behalf of Chase.

Now we are back again for trial and the evidence before this Court clearly shows that Chase's designee still has not been prepared by Chase to testify about that evidence related to those topics which Judge Ashcraft ordered the Chase designee to testify about at his second deposition. Those deficiencies in the designee's compliance with Judge Ashcraft's order and the 30(b)(6) notice are well stated in Morton's five page reply brief.

Because Chase cannot argue that it has complied with CR 30(b)(6) this Court must determine what is the "least severe sanction adequate to serve the sanction's particular purpose but is not so minimal as to undermine the purposes of discovery."

No sanction other than exclusion of the designee's testimony is adequate because Morton was entitled to obtain discovery from a corporate designee who had been adequately prepared to testify about these matters. And it is clear that Chase's designee wasn't prepared by Chase to testify regarding these matters. He was only

given those materials which Chase's attorneys provided to him. This was a set up for non-compliance with Chase's discovery obligations.

Forcing Morton into a trial under such circumstances violates his rights to due process of law because it allows Chase to violate this Court's procedural rules in taking his property and giving it to an entity that has no right to it, just to facilitate a preferred outcome in what has been set up by Chase to be a sham judicial proceeding.

I am happy to answer any questions you may have.

SOME EXAMPLES OF AREAS WHERE CHASE'S DESIGNEE WAS NOT PROPERLY PREPARED:

Collateral file - Designee never reviewed the collateral file so couldn't testify with regard to "the meaning of the assertions previously made in this case by Douglas Theener" about that file.

Assignment - Had no idea what assignment was being referred to in the comment section of the Bank One compliance record, which he testified showed that Bank One received the original note from First Franklin.

Corporate entities - Doesn't know which Chase entity acquired Morton's loan.